

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANTHONY VONE CAIBY,

Plaintiff,

v.

TAMELA FERGUSON,  
Defendant.

**FILED**

MAY - 2 2019

CIVIL ACTION NO. 19-CV-0423

By KATE BARKMAN, Clerk  
Dep. Clerk  
:

**ORDER**

AND NOW, this 21 day of May, 2019, upon consideration of Plaintiff Anthony Vone Caiby's Motion to Proceed *In Forma Pauperis* (ECF No. 12), his Statement (ECF No. 13), and his *pro se* Complaint (ECF No. 2), it is ORDERED that:

1. Leave to proceed in forma pauperis is GRANTED pursuant to 28 U.S.C. § 1915.
2. Anthony Vone Caiby, #HIX-8170, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court hereby directs the Warden of SCI Phoenix or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Caiby's inmate account; or (b) the average monthly balance in Caiby's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Caiby's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Caiby's inmate account until the fees are paid. Each payment shall reference the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Warden of SCI Phoenix.

4. The Complaint is **DEEMED** filed.

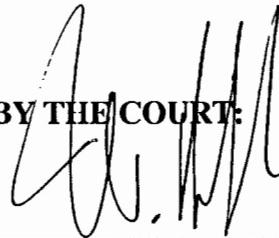
5. Caiby's Complaint is **DISMISSED** for the reasons in the Court's Memorandum.

Caiby's claims that are factually frivolous are **DISMISSED with prejudice**. Caiby's claims that are dismissed for failure to state a claim are **DISMISSED without prejudice** to amendment in accordance with paragraph six (6) of this Order.

6. Caiby is given thirty (30) days to file an amended complaint. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the second amended complaint, and shall state the basis for Caiby's claims against each defendant. If Caiby does not know the identity of the individuals responsible for violating his rights, he may refer to them as Jane or John Does; however, Caiby must still describe how these individuals violated his rights.<sup>1</sup> Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

7. The Clerk of Court shall send Caiby a blank copy of the Court's form complaint to be used by a prisoner filing a civil rights action bearing the above civil action number. Caiby may use this form to file his amended complaint if he chooses to do so.

8. If Caiby fails to comply with this Order, his case may be dismissed for failure to prosecute without further notice.

BY THE COURT:  


WENDY BEETLESTONE, J.

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<sup>1</sup> Without the name of at least one individual or entity, however, the Court will be unable to direct service of any second amended complaint that Caiby may file.